Senate Budget & Fiscal Review

Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Ray N. Haynes
Senator Deborah Ortiz

March 18, 2002
1:30 P.M. (after Agenda I)
ROOM 113
(Diane Van Maren, Consultant)

AGENDA II

Item	***Description***
4440	**Department of Mental Health, including issues regarding**

- **Community Mental Health**
- **State Hospitals**
- **Department Support**

PLEASE NOTE: Issues pertaining to the DMH may be reviewed again at the Subcommittee's "OPEN" issues hearing and again at the time of the May Revision. **Please refer to the Senate Daily File for the dates and times for Subcommittee hearings.**

I. 4440 Department of Mental Health

A. BACKGROUND

Purpose and Description

The Department of Mental Health (DMH) administers the Bronzan-McCorquodale and Lanterman-Petris-Short Acts providing delivery of mental health treatment services through **(1)** a state-county partnership and **(2)** the involuntary treatment of the mentally-disabled. The DMH is responsible for the operation of five state hospitals and the acute psychiatric units at the California Medical Facility in Vacaville and the Salinas Valley State Prison.

Overview of Governor's Budget

The budget proposes expenditures of **almost $2.192 billion** ($943.4 million General Fund) for mental health services. This reflects an increase of $103.1 million, or 4.9 percent, over the revised 2001-02 budget. **Of the total amount, $1.471 billion is for local assistance, $611.2 million is for the state hospitals, $44.2 million is for department support, and $64.8 million (General Fund) is for state mandated local programs.**

In addition, it is estimated that $1.173 billion will be available in the Mental Health Subaccount (County Realignment Funds) which does not directly flow through the state budget. This amount does not include the estimated $14 million which may be made available from the Vehicle License Collection Account.

Further, an appropriation of $21.5 million ($736,000 General Fund and $20.8 million Public Building Construction Fund) is provided for capital outlay purposes at the State Hospitals.

Summary of Expenditures (dollars in thousands)	2001-02	2002-03	$ Change	% Change
Program Source				
Community Services Program	$1,334,598	$1,471,364	$136,766	10.2
Long Term Care Services	$608,235	$611,237	$3,002	0.5
Headquarter Administration	$45,435	$44,208	($1,227)	(2.7)
State Mandated Local Programs	$100,303	$64,840	($35,463)	35.4
Total, Program Source	$2,088,571	$2,191,649	$103,078	4.9
Funding Source				
General Fund	$989,222	$922,052	($67,170)	6.8
Federal Funds	59,707	59,707		
Reimbursements	1,035,552	1,185,889	150,337	14.5
Other Funds	4,090	24,001	19,911	487
Total Department	$2,088,571	$2,191,649	$103,078	4.9

B. ITEMS FOR CONSENT (Items 1 through 8)

1. Adjustment for San Mateo Pilot Project--Pharmacy & Laboratory Services

Background and Governors Budget: The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Waiver agreement and state statute as a "field test" since 1995. The field test is intended to test managed care concepts which may be used as the state progresses toward consolidation of specialty mental health services and eventually, a capitated or other full-risk model. As the model has matured and evolved, additional components have been added and adjusted.

As part of the contract negotiation with the DMH, trend factors for pharmacy and laboratory costs have been updated to more accurately reflect actual cost-based data. As such, the laboratory costs and pharmacy costs were adjusted in the current year.

For the budget year, the DMH is proposing to drop the risk corridor and settle on a fixed allocation for pharmacy and laboratory services. San Mateo is in agreement and is now ready to assume full risk of these services, if the allocation of General Fund for these services is increased to match cost data since January 1999. As such, the budget is proposing **an increase of $1.9 million** ($1.4 million General Fund) for this purpose.

DMH has determined that the pharmacy and laboratory benefit under the San Mateo field test is cost-neutral based on projections of the likely cost of the services if the benefit is eliminated from the field test.

Subcommittee staff has raised no issues.

2. Department of Mental Health Support Reductions

Background and Governor's Proposed Budget: The DMH **is proposing a reduction of $3,156,000 General Fund from their state support budget.** This level of savings assumes the following:

- Elimination of 8 positions from the Program Develop and Evaluation section for savings of $635,000.
- Reduction of 4 positions from the Information Technology contract funding for State Hospital Master Billing and Pharmacy Systems for savings of $437,000.
- Reduction of $400,000 in funding for the evaluation of AB 34/2034 projects.
- Reduction of $$361,000 for consultant and professional services contracts.
- Reduction of $282,000 for evaluation costs associated with the Sexually Violent Predator Program.
- A shift of $233,000 from the General Fund to federal SAMHSA block grant funds by claiming the full 5 percent for administrative activities as allowed under federal regulations.
- Reduction of $200,000 from information technology services associated with the State Hospital Trust System.
- Elimination of DMH participation in on-site reviews of seriously emotionally disturbed children in out-of-state placements conducted by the Department of Social Services for savings of $200,000.
- Closure of an office to eliminate $156,000 in rental space expenditures.
- Reduction of two positions from the Early Mental Health Program for savings of $140,000. The Administration is also proposing to slightly modify program requirements to allow for this staffing

level reduction. Specifically, the proposed language modification provides the Director of Mental Health with the authority to select program models that have been determined to be effective and based on sound research.

- Elimination of one position associated with second level appeals of treatment authorization requests for savings of $89,000.
- Deletion of one position associated with cost reporting and data collection for a savings of $46,000 ($23,000 General Fund and $23,000 in Reimbursements).

The DMH notes that these reductions are necessary in order to not exceed available resources.

Subcommittee staff has raised no issues with these proposed reductions in light of the present fiscal situation.

3. Department of Mental Health Local Assistance Reductions

Background and Governor's Proposed Budget: The DMH **is proposing a reduction of $4.2 million (General Fund) from the local assistance budget.** This level of savings assumes the following:

- Elimination of $2.7 million (General Fund) in supplemental funding for Santa Clara County related to the closure of East Valley Pavilion. This supplemental funding has been provided since 1993. No other county has received this type of supplemental funding.
- Elimination of $1.5 million (General Fund) from the Dual Diagnosis Projects. This proposal eliminates all General Fund support for these projects. The current year budget already reduced these projects by $400,000 (SB 1xxx). It should be noted that about $8 million in new federal SAMHSA grant funds for the current year was allocated to the counties to support existing efforts to provide integrated treatment services to adults with a dual diagnosis of serious mental illness and substance abuse.

The DMH notes that these reductions are necessary in order to not exceed available resources.

Subcommittee staff has raised no issues with these proposed reductions in light of the present fiscal situation.

4. Healthy Families Program—Adjustment for Caseload

Background: The Healthy Families Program provides health care coverage and dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal. Monthly premiums, based on family income and size, must be paid to continue enrollment in the program. **California receives an annual federal allotment of federal Title XXI funds (Social Security Act) for the program for which the state must provide a 34 percent General Fund match, except for supplement mental**

health services in which County realignment funds are used as the match. With respect to legal immigrant children, the state provides 100% General Fund financing.

The enabling Healthy Families Program statute linked the insurance plan benefits with a **supplemental program** to refer children who have been diagnosed as being seriously emotionally disturbed (SED). The **supplemental services** provided to Healthy Families children who are SED can be billed by County Mental Health Departments to the state for a federal Title XXI match. **Counties pay the non-federal share from their County Realignment funds** (Mental Health Subaccount) to the extent resources are available.

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits prior to referral to the counties.

Governor's Proposed Budget: The budget proposes total expenditures of almost $8 million (total funds) for supplemental mental health services provided by the County Mental Health Plans for children enrolled in the HFP. **This reflects a decrease of $853,000** (total funds) **to reflect adjustments to the HFP based on paid claims data and a reduction in the estimated percentage of legal immigrants requiring supplemental mental health services.**

Subcommittee staff has raised no issues regarding this adjustment.

5. Traumatic Brain Injury Cooperative Program

Background and Governor's Proposed Budget: The Traumatic Brain Injury (TBI) Pilot Program was initiated in 1988 and is intended to provide assistance to individuals who have sustained a brain injury as a result of an external force to the head. The purpose of the pilot project was to demonstrate the effectiveness of a coordinated service approach to assist persons with TBI to attain productive, independent lives.

As part of the TBI Program, DMH through reimbursement from the Department of Rehabilitation provides training and technical assistance to service providers and family members. The budget proposes to permanently establish a three-fourths time Associate Mental Health Specialist to absorb the workload associated with the program. This position is fully funded at about $40,000 through reimbursements from the Department of Rehabilitation.

Subcommittee staff has raised no issues with this proposal.

6. Mentally Disordered Offenders

Background and Governor's Proposed Budget: Pursuant to existing statute, CDC inmates who meet Mentally Disordered Offender (MDO) criteria are required to be treated for their mental illness as a condition of parole. In addition, the DMH must evaluate these inmates prior to their release on parole.

The budget requests an **increase of $184,000 (General Fund) to provide an additional 25 evaluations per month (total of 376 per month) to be completed on MDOs.** This request is simply caseload related.

Subcommittee staff has raised no issues regarding this proposal.

7. Adjustment for Worker's Compensation Costs for State Hospitals

Background and Governor's Proposed Budget: The budget requests an increase of $205,000 ($162,000 General Fund and $43,000 County Realignment funds) to the State Hospital appropriation in accordance with the new three-year Master Agreement negotiated by the Department of Personnel Administration for the administration and payment of workers' compensation benefits.

The new Master Agreement includes a provision that requires each state agency to deposit an amount equal to one-eighth of the benefits provided during the preceding twelve months. This amount is to be adjusted annually and will be rolled over at the beginning of each new rating period. All state agencies covered by the Master Agreement are required to pay their fair share of service costs associated with workers' compensation administrative services provided by the State Compensation Insurance Fund (SCIF).

No issues have been raised regarding this item at this time.

8. State Hospital Capital Outlay Projects—Public Building Construction Fund

Background and Governor's Proposed Budget: The budget provides a total of $20.8 million (Public Building Construction Fund) for preliminary plans and working drawings for two continuing projects—**(1)** construction at Atascadero State Hospital for the multipurpose building ($13.7 million, and **(2)** construction at Metropolitan State Hospital for a school building ($7.1 million). **These amounts are consistent with the Supplemental Report Language adopted by the Legislature in the Budget Act of 2001.**

Subcommittee staff has raised no issues with this proposal, nor has the LAO.

C. ITEMS FOR DISCUSSION—COMMUNITY BASED SERVICES

1. Medi-Cal Specialty Mental Health Managed Care—ISSUES "A" & " B "

Overall Background—Overview of Mental Health Managed Care: Implementation of Medi-Cal Mental Health Managed Care has included the consolidation of Medi-Cal psychiatric inpatient hospital services ("Phase I"), which occurred in January 1995 and the consolidation of Medi-Cal specialty mental health services ("Phase II"), which occurred from November 1997 through June 1998. **These two phases of implementation consolidated the two existing Medi-Cal mental health programs (Short-Doyle and Fee-For-Service) into one service delivery system. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal Health Care Financing Administration (HCFA).**

Under this delivery system, psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists, and some nursing services**, became the responsibility of a single entity, the Mental Health Plan (MHP) in each county. Medi-Cal recipients *must* obtain services through the MHP.**

Under this model, **MHPs generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. An annual state General Fund allocation is provided to the MHP's for this purpose.**

The DMH is responsible for monitoring and oversight activities of the MHPs to ensure quality of care and to comply with federal and state requirements.

ISSUE A: Status Update on Waiver Approval, HCFA Conditions and Need for An Independent Assessment *(Informational Item)*

Recent Waiver Renewal and Required Conditions: The federal Waiver for Medi-Cal Mental Health Managed Care was renewed by the federal Health Care Financing Administration (now the federal Centers for Medicare and Medicaid--CMS) on November 16, 2000. This is the state's third Waiver renewal. **The new Waiver period is from November 20, 2000 through November 19, 2002, or for two years.**

The **Waiver renewal was contingent on the following federal conditions:**

- ***Independent Assessment/Analysis:*** The state must submit an extensive **"Independent Assessment" of the Waiver program to the federal CMS by no later than August 2002**.
- ***State Assessment of Matching Funds:*** The **state must provide the federal CMS with an assessment of the source of state matching funds (including County Mental Health Realignment Funds) used in the waiver (by no later than November 2002).**

- ***Justification of Sole Source Contract:*** The state must provide the federal CMS with a re-justification of why the state contracts solely with the counties for administering mental health services provided to Medi-Cal recipients.
- ***Annual Reports on Children:*** The state must provide **detailed data reports** on children with special needs, **including utilization data on those enrolled in Foster Care, the CCS Program, and EPSDT**. **Further, the state must report on the following:**
    - County and/or **state oversight of the availability of mental health specialists** with experience treating children;
    - **County outreach and identification activities**, including coordination with programs such as Foster Care, special education, and juvenile justice; and
    - State's progress in developing and implementing performance measures related to children's mental health services.

Newly Proposed HCFA Regulations—Significant Changes: New ***proposed*** regulations governing all Medicaid (Medi-Cal) Managed Care Programs were issued in August 2001. **Implementation of these regulations must take effect by July 1, 2003. It is anticipated that the final regulations will be forthcoming from the federal CMS within the next month.**

The DMH states that **the full extent of the affect of these proposed regulations on California has not yet been fully evaluated but they will likely require significant changes in the administration of the program. For example:**

- The state may need to restructure the program in order to **provide recipient choice** (i.e., use a two plan model versus the existing County Mental Health Plan model).
- **The state (through an independent consultant) would be required to conduct annual "External Quality Reviews" of each County Mental Health Plan.** Presently this process is used (required by federal CMS) in the Medi-Cal Managed Care Program for health care services, but not for behavioral health services.
- The state would need to revise its Medi-Cal grievances, appeals and fair hearing processes to accommodate new time frames.

Generally, the state has three options for meeting the requirements of the regulations. We can either (1) fully comply, (2) request Waivers for certain provisions, or (3) restructure the existing program to meet all of the requirements.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions.

- **1.** Please **provide a brief update on the status of the Waiver renewal.**
- **2.** Will the Independent Assessment be available for public review?
- **3.** Please provide **brief comment on the proposed federal regulations.**

ISSUE B: Adjustment of Payments for Medi-Cal Mental Health Managed Care

Background—Standard Funding Adjustments: Mental Health Plans (MHPs) receive an annual state General Fund allocation from the DMH which is then used to draw down the federal Medicaid (Medi-Cal) matching funds. This allocation is adjusted each fiscal year to reflect adjustments as required by Chapter 633, Statutes of 1994 (AB 757, Polanco). **These adjustments typically include, changes in the number of eligibles served, factors pertaining to changes to the consumer price index for medical services, and other relevant factors**.

Governor's Proposed Budget: The budget proposes a ***net*** increase of about **$14.4 million ($ 14.1 million General Fund and $298,000 in Reimbursements) for both inpatient and specialty mental health services. This amount reflects the following key adjustments:**

- Increase of almost $14.3 million for inpatient services. Of this amount, $5.2 million is due to caseload increases, $5.5 million is for medical CPI, and $3.6 million is due to the federal Medicaid (Medi-Cal) match reduction.
- Increase of $1.2 million for specialty mental health services.
- Decrease of almost $500,000 due to a technical shift in having Kaiser and Western Health Advantage (two Medi-Cal Geographic Managed Care plans in Sacramento) retain fee-for-service mental health reimbursement via the Department of Health Services budget, and not the DMH.

Subcommittee staff has reviewed these adjustments and has no issues regarding them.

Budget Issue: **Does the Subcommittee want to adopt the proposed budget?**

2. Reimbursement for Psychiatric Services Provided Via Telemedicine

Overall Background: Dr. Thomas Nesbitt, Assistant Dean for Regional Outreach, Telehealth and Continuing Medical Education and Director for the Center for Health and Technology at UC Davis Medical Center, recently presented a paper on Telemedicine through a legislative CPAC policy briefing. **In his briefing he noted the following key challenges regarding the provision of mental health services in rural California:**

- There are severe shortages of mental health services in rural California.
- Limited access to mental health services may result in higher utilization of medical services and higher suicide rates. (For example, residents of northeastern California are filling themselves at twice the state average.)
- There is often a stigma in rural communities toward mental health services—concerns about privacy.

Dr. Nesbitt presented compelling data that illustrated how Telemental health services can be effectively used to mitigate these challenges by improving access to services and

stabilizing rural health care systems. **In fact Telepsychiatry is the number one specialty used by rural primary care providers.**

Background on Reimbursement and Constituency Concern: Certain primary care providers are "carved-out" of the County Mental Health Plan system. **These providers, including FQHCs, Rural Health Clinics, and Adult Day Health Care Centers, are able to bill Medi-Cal for mental health services that are delivered in their facilities. Allowable clinic services include** services provided by Licensed Clinical Social Workers and Psychiatrists.

However, when these services are provided via Telemedicine, there is no reimbursement mechanism in place to enable the Psychiatrist to bill Medi-Cal and maintain the carve-out. UC Davis Health System, the largest provider of Telepsychiatry services in Northern California has indicated that they can no longer provide these services unless they receive prior authorization from each County. **As such, based on past experience, UC Davis anticipates that many patients will not be able to receive this authorization from the counties and therefore, will be unable to access needed psychiatric care.**

In an effort to address this concern, a coalition of provider groups and the UC Davis Telehealth Program formed a **work group** to develop options for receiving Medi-Cal reimbursement for these services. **Through their efforts, they determined that a viable solution would be to use a Medi-Cal billing code (Physician Consultative Services—code 9924) in lieu of billing as a county mental health service since the patient's primary care provider participates in the treatment planning component of the medical consult. They contend that billing in this manner will enable patients to continue to receive the Psychiatric consult without having to enter the County Mental Health system.**

DMH Response (Hand Out): In January, **the DMH responded** to the work group stating that their proposed solution was not workable because the Medi-Cal billing system would deny the claim with an error message stating that the provider of the service is covered by a County Mental Health Plan. They noted that County Mental Health Plans are generally not required to cover services by providers who are not contractors of the county, or services that the County Mental Health Plan has not authorized in advance. **The DMH also noted their interest in obtaining a solution to the problem; however, to-date, no solution has as yet been identified.**

Subcommittee Request and Questions: The Subcommittee has requested the DMH and DHS to respond to the following questions:

- **1.** As a temporary remedy, **Could the DHS have the Medi-Cal Fiscal Intermediary process the claims in question** in order to provide appropriate reimbursement pending further work by the DMH and involved organizations?

Budget Issue: Does the Subcommittee want **to adopt uncodified trailer bill language** to provide for a short-term remedy pending further work by the DMH and constituency groups?

3. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program

Background: **Most children receive Medi-Cal services through the EPSDT Program**. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) **recipients under age 21 *any* health or mental health service that is medically necessary** to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, **including services not otherwise included in a state's Medicaid (Medi-Cal) Plan.**

The state uses the term **"EPSDT supplemental services**" to refer to EPSDT services which are required by federal law **but are not otherwise covered under the state Medi-Cal Plan for adults**. **Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.**

Though the DHS is the "single state agency" responsible for the Medi-Cal Program**, mental health services, including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH)**.

Further, at the local level, **counties are responsible for providing, arranging and managing Medi-Cal mental health services under the supervision of the DMH and DHS.**

EPSDT Implementation and Funding: Due to litigation, the DHS was required to expand certain EPSDT services, including outpatient mental health services. As such, the DHS and DMH **crafted an interagency agreement in 1995 to implement expanded services.**

Generally, this agreement requires the DHS to provide General Fund support as a match for EPSDT services administered by the counties which is above an annually adjusted baseline amount (essentially a county "maintenance-of-effort" requirement). The baseline amount is established for each county based on a formula. **For 2002-2003, the baseline is $129 million which means that the state will provide funding (via Medi-Cal) for costs above this amount.**

The General Fund dollars and accompanying federal matching funds are budgeted in the DHS and are transferred to the DMH as reimbursements. **The DMH distributes EPSDT funds to the county Mental Health Plans (MHPs) responsible for the provision of specialty mental health in each county. Final payment is based on cost settled actual allowable costs, or rates.**

Reasons Why Costs Continue to Increase: It is the ultimate goal of the state to eventually transfer the risk for EPSDT services to the counties, which now operate as Mental Health Plans (MHPs) under Medi-Cal Mental Health Managed Care. The transfer of risk, however, is dependent on determining a reasonable estimate of the appropriate level of reimbursement for that risk.

As noted by the DMH, the continuing expansion of EPSDT services in response to significant state policy changes has made such an estimate impossible. A variety of

factors have contributed to the continued expansion, including legislative mandates, recent Medi-Cal Program expansions, legal decisions, recent Medi-Cal reimbursement adjustments for Psychologist and Psychiatrist services, and the fact that several counties were delayed in initially expanding their EPSDT services in the first place.

Prevalence Rate for California: Based on a number of studies which estimate the prevalence of children exhibiting various levels of functional impairment, **it is estimated that 20 percent of children suffer from diagnosable mental disorder, and up to 13 percent of these children are estimated to be seriously emotionally disturbed. Given these estimates it is likely that between 500,000 to 1.3 million children and adolescents in California have a severe emotional disturbance. As a comparison, the statewide average EPSDT penetration rate is about 5.3 percent (as of 2000-01).**

Governor's Proposed Budget: The budget proposes **an increase of $133.7 million** (Reimbursements from the DHS—about $66.8 million General Fund and $66.8 million in federal Title XIX funds) **to reflect caseload growth and related adjustments.**

Legislative Analyst's Office Concerns: The LAO has expressed concerns about the increases for EPSDT services over the past few years. **They contend that the state needs to improve their monitoring of the program to better discern whether more intensive and more expensive services than just those that are "medically necessary" are being provided to some EPSDT clients.** Further, they believe that the program could be restructured to have counties share in the cost of the program.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please provide **a brief overview of the EPSDT Program and the need for the requested funds.**
- **2.** Will the EPSDT survey, as requested by the Legislature, be provided to the Subcommittee by April 1, 2002? Are their any preliminary results from the survey that can be shared with the Subcommittee today?

Budget Issue: Does the **Subcommittee want to** adopt the proposed budget for EPSDT services pending receipt of the May Revision?

4. Therapeutic Behavioral Services

Background—Court Ruling and Description of the Services: As the result of a court injunction—***Emily Q. vs. Bonta'--***the DMH and County Mental Health Plans (MHPs) are required to provide **therapeutic behavioral services** as a Medi-Cal benefit. These services are intended to supplement other specialty mental health services addressing the target behavior(s) to maintain the child or youth's current living situation or to support a planned transition to a lower level of placement.

Specifically, therapeutic behavioral services are intensive one-to-one, short-term outpatient treatment interventions for children and youth with serious emotional problems or mental illness who are experiencing a stressful transition or life crisis and need additional short-term support to prevent placement in a more intensive, costly setting (such as a group home of Rate Classification Level 12 to 14).

A permanent injunction along with a judgment was issued by the court on May 11, 2001. Key aspects of this judgment include the following:

- TBS must be provided as compensatory equitable relief for class members who are no longer eligible for TBS since the state violated their rights for obtaining the service;
- TBS must be provided to recipients in skilled nursing facilities, Mental Health Rehabilitation Centers, and State Hospitals to facilitate transition into the community if the services would be eligible for federal Medicaid (Medi-Cal) reimbursement (potential May Revision issue);
- County Mental Health Plans must complete a certification that TBS has been considered prior to placement in Napa and Metropolitan State Hospitals, or other institution or group home settings when the county has been involved in the placement.
- DMH must provide some training to providers in behavioral analysis and positive behavior interventions for at least the next three years;
- DMH and County Mental Health Plans must provide notices or arrange for the provision of notices regarding TBS and EPSDT on a case-by-case basis to recipients, adults responsible for them, and dependency attorneys representing recipients.
- DMH must perform certain oversight activities and conduct certain quality improvement functions regarding TBS.

The court will maintain jurisdiction over many aspects of the case for the next three years.

Current Year Funding and DMH Oversight: It is estimated that **$18.8 million** ($9.5 million General Fund) is needed to provide TBS services for 2001-02 (current year).

County Mental Health Plans are required to notify the DMH within 30 days after TBS has been initiated for a recipient and quarterly thereafter if services continue. **From the date of implementation in July 1999 through June 25, 2001, there have been 1,555 recipients who have received TBS services statewide.**

Governor's Proposed Budget: The DMH states that costs for ongoing services and related adjustments for the budget year are estimated to be **$35.2 million.** As such, the budget proposes **an increase of about $16.6 million (Reimbursements from the DHS which reflects $8.3 million in General Fund support) for counties to provide TBS services. The DMH states that they expect about 2, 167 children and youth in the certified class will require TBS services, and that it will cost about $15,351 per recipient.**

The budget request also includes funds to carry out the requirements for delivery of services, notices, training and technical assistance, oversight activities and related administrative functions required by the final order and permanent injunction.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please **briefly describe the key oversight functions and quality improvement activities conducted by the DMH regarding TBS.**
- **2. Why are costs continuing to escalate?**
- **3.** Is the **DMH anticipating adjustments** pertaining to service costs and quality assurance activities **at the time of the May Revision?**

Budget Issue: Does the Subcommittee want to adopt the request pending receipt of the May Revision?

5. Children's System of Care Program(CSOC) —Proposed Reduction &Trailer Bill Language

Background: Existing law authorizes counties to develop a comprehensive, coordinated children's mental health service system as provided under the Children's Mental Health Services Act.

The purpose of the program is to develop an integrated system of care for children who are severely emotionally and behaviorally disturbed, and their families. **The basic elements of the program include interagency coordination and collaboration, child/family-centered services, culturally competent services, and case management services.** Families of the children are full participants in all aspects of the planning and delivery of services.

The target population includes individuals 18 years of age and under who have a diagnosed mental disorder in which the disorder results in substantial impairment

in two or more areas (such as self care, school performance, family relationships and ability to function in the community).

Under the program, accountability of services is required through measurable performance outcome goals. An evaluation of the program generally concluded that the program has been **very successful and cost-beneficial, including savings in service expenditures for group homes, special education, and juvenile justice.**

Recent Funding History: **The Legislature has been very supportive of the program in the past**. Legislative budget augmentations to facilitate statewide expansion have included **(1)** $1.9 million in 1995, **(2)** $7.1 million in 1996, **(3)** $6 million in 1997, **(4)** $20 million in 1998 which was reduced by Governor Wilson to a total of $4 million, **(5)** $13.4 million in 1999 which was reduced by Governor Davis to a total of $2 million, and **(6)** a veto of $2.1 million (General Fund) by Governor Davis in 2001.

Current Year Funding: The 2001-02 budget (current year) for the Children's System of Care (CSOC) Program is about **$43.6 million ($39.6 million General Fund and $4 million federal SAMHSA grant funds). Of this amount $42.7 million ($38.7 million General Fund and $4 million federal SAMHSA) is for county-related services.** The remaining amount is primarily for an evaluation ($470,000), and technical assistance center ($350,000).

Based on DMH funding guidelines for the program, all participating counties are currently funded at the recommended level. Four counties are unfunded—Fresno, Tulare, Colusa, and Alpine.

Governor's Proposed Budget--Reduction: The budget proposes **a reduction of almost $4.2 million** (General Fund) for the Children's System of Care Program. This **reduction includes (1) $3.8 million in funding for counties**, and **(2)** about $370,000 for an independent evaluation of the CSOC Program.

The DMH states that the $3.8 million in reductions will have to come from base funding for the counties. In addition, they expect that this proposed reduction will result in some painful choices at the local level.

Proposed Trailer Bill Language (See Hand Out): The Administration **is also proposing trailer bill language to eliminate the independent evaluation** of the Children's System of Care. If the Subcommittee wants to capture the $370,000 (General Fund) savings for elimination of the independent evaluation, then this language needs to be adopted. It should be noted that the proposed language would have the DMH provide technical assistance to the counties regarding the program.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1. Is any additional federal SAMHSA grant funds available for this purpose?**

- **2. Will the $4 million (federal SAMHSA grant funds) in the current year still be available in the budget year?**
- **3. Specifically, how would the Administration take the reduction from the counties? What criteria would be used?**

Budget Issue: Does the Subcommittee **want to make any adjustment to the proposed $3.8 million reduction to the counties** under the Children's System of Care Program?

6. Community Treatment Facilities (CTFs)—Supplemental Rate

Overall Background: Chapter 1245, Statutes of 1993, established a new category of **secured** (locked and can use seclusion and restraints) **residential care for the treatment of seriously emotionally disturbed (SED) children** referred to as **"Community Treatment Facilities" (CTFs)**.

CTFs were generally created as an alternative to out-of-state placement and state hospitalization for SED children. Specifically, this model was intended to provide more intensive treatment than normally provided in a group home but less oversight than a State Hospital or acute institution.

Under the statute, **the DMH** is responsible for the development and distribution of **400 secured community-based beds** within the five Mental Health Regions (i.e., Los Angeles, Bay Area, Southern, Central and Superior).

The DSS is required to develop licensing regulations for these facilities, and the DMH is responsible for certifying them (i.e., approving that they meet program standards). Regulations to proceed with the development of the CTF beds became effective on July 1, 1998. **However, difficulties arose due to lack of clarity regarding some of the regulations, and problems with adequate funding.**

Through the Budget Act of 2001 and related legislation, an agreement was reached to provide supplemental funding **(both state (40%) and county (60%))** for CTF beds and related services until longer-term solutions could be crafted. In addition, trailer bill legislation required **the DMH and DSS to develop joint protocols for the oversight of these facilities and specifies provisions for establishing payment rates for them.**

Recent Activities and New CTF Facilities: There are now **five CTF programs** which are operational; these include the following:

- San Francisco Alternatives Program (22 beds, ages 7 to 17 years);
- Seneca-Oak Community Alternatives Program (Concord) (18 beds, ages 6-17 years);
- Starlight Community Treatment Facility (Santa Clara) (36 beds, ages 3-18 years);
- Vista Del Mar Child & Family Services (Los Angeles) (21 beds, ages 9-17 years);
- Starview Children & Family Services (Torrance) (40 beds, ages 11-17 years);

These programs would be eligible to receive the supplemental funding.

The joint CTF regulations crafted by the DMH, DSS and other involved parties have been recently completed. In order to ensure that these regulations do not pose a burden to existing programs or serve as a barrier to starting additional programs, the DMH states that they (1) have established a CTF Advisory Committee which meets quarterly, (2) have joint meetings with the DSS and CTF providers to discuss issues, and (3) conduct bi-monthly conjoint visits with the DSS to the five CTF programs.

It should also be noted that the DMH will be releasing a Request for Application to address the absence of a CTF provider in the Central Region of California.

Further, the DMH has initiated a request to contract for a CTF study as required pursuant to Section 4094.2 of Welfare and Institutions Code.

Governor's Proposed Budget and Trailer Bill Language (Hand Out): The budget **proposes an increase of $1.2 million (General Fund) to continue the supplemental funding** for support of up to **140 CTF beds** until the appropriate rate structure for these facilities can be developed. This level of funding would continue the supplemental rate of up to $2,500 per child per month (with 40% state funds and 60% county funds).

In addition, **trailer bill language** to amend Welfare and Institutions Code Section 4094.2 to extend the CTF rate for one year (through 6/30/03), and to increase the number of beds from 100 to 140, is also proposed.

Subcommittee Request and Questions: The Subcommittee has requested for the DMH to respond to the following questions:

- **1.** Generally, **how is the CTF model working?**
- **2.** When will the **CTF study be completed?**
- **3.** When will the **Request for Application** to obtain a Central Region CTF program be released?

Budget Issue: Does the Subcommittee want to adopt the proposed budget and trailer bill language pending receipt of May Revision?

7. Supportive Housing Initiative—Proposed Reduction

Background—Need and Existing Programs: The need to provide decent, affordable housing opportunities for individuals with mental illness, special health care issues, substance abuse issues, and developmental disabilities has been well documented. For example, there are **at least 150,000 people who are homeless in California and recent studies indicate that at least half are disabled with mental illness, medical problems or other health conditions**. Supportive housing and independent living arrangements

offer a permanent place to live with services designed to assist an individual or family to attain stability and self-sufficiency.

Many studies have documented the cost-effectiveness of providing supportive housing. For example, as referenced by the DMH, **data indicates that the integration of services and low-cost housing increases workforce participation by severely disabled adults by at least 20 percent**.

Supportive Housing Initiative: Through the Budget Act of 1998, the **Legislature created the Statewide Supportive Housing Initiative** to assist low-income individuals with health problems (mental illness, alcohol or drug abuse, developmental disabilities, HIV/AIDS, and other health problems) obtain housing.

Under Initiative, funds are allocated through a competitive process (Request for Application) developed by the Supportive Housing Program Council **(Council)** and administered by the DMH. Funds are to be allocated to non-profit agencies, local government, or consortia for services to targeted populations (as referenced in the statute and Budget Act Language). **All grantees are required to provide a match**, **which increases each consecutive year** (i.e., 50% match in year one, 100% in year two, and 150% in year three).

Through the leadership of the Senate, the Budget Act of 2000 provided a $25 million (General Fund) increase for the Supportive Housing Program. This augmentation increased total funding to be about $26 million (General Fund). In the Budget Act of 2001, Governor Davis vetoed $5 million from the program, leaving a total appropriation of $21 million.

Governor's Budget Proposal: The budget **proposes to reduce the Supportive Housing Program by $17.5 million (General Fund) leaving a total of $3.5 million. In addition, the DMH states that they are considering to set aside $350,000 (10 percent) of the $3.5 million for administrative costs as provided in the enabling legislation. This would leave only $3.150 million for allocation for grants. A Request for Application (RFA) process would be used for allocation of the grants.**

The DMH states that they are considering offering grants only for the supportive services portion of supportive housing projects. While the requirement that each project offers both housing and services would remain the same under this potential approach, the DMH may not provide grant funds for rental subsidies until such time as sufficient funds are again available to support the subsidies.

The DMH states that the Administration's decision to delete funds from this program was extremely difficult; however, in order to achieve the required budget reductions, they chose to reduce the Supportive Housing Program because it is 100 percent General Fund supported.

Senate Bill 1227 (Burton)—Housing and Emergency Shelter Trust Fund Act of 2002: This bill would authorize the issuance of general obligation bonds in the amount of $2.1 billion for purposes of financing various existing housing and code enforcement

programs, and additional specified programs, subject to the enactment of enabling legislation. Once adopted by the Legislature, the proposal would be submitted to the voters at the statewide November 5, 2002 General Election.

Among many other allocations, SB 1227 proposes to provide $195 million for supportive housing and $195 million for emergency housing and assistance.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please briefly describe the budget proposal.

Budget Issue: Does the Subcommittee **want to adopt the budget proposal or establish other priorities due to the legislative bond proposal and difficult fiscal situation?**

(This completes the community mental health portion of the agenda).

D. ITEMS FOR DISCUSSION—STATE HOSPITALS

Overall Background for the State Hospital Budget: The budget proposes **expenditures of $611.2 million ($463.1 million General Fund) for the State Hospitals for a *net* increase of almost $3 million (increase of $13.5 million General Fund) over the revised 2001-02 budget.**

Further, an appropriation of $21.5 million ($736,000 General Fund and $20.8 million Public Building Construction Fund) is provided for capital outlay purposes.

State Hospital Population—Additional Penal Code: The DMH estimates **a population of 4,687 patients** for 2002-03 (as of June 30, 2003) **at the four State Hospitals -- Napa, Metropolitan, Patton, and Atascadero**. Of this population, **83 percent of the beds are designated for penal code-related patients** and less than 16 percent are to be purchased by the counties (i.e., Lanterman-Petris-Short beds).

Who Are the Penal Code Patients: **Penal Code-related patients include individuals who are classified as (1)** not guilty by reason of insanity, **(2)** incompetent to stand trial, **(3)** mentally disordered offenders, **(4)** sexually violent predators, and **(5)** other miscellaneous categories. The basic goal of the program is the restoration of a patient's optimal level of functioning to allow reentry into the community or the criminal justice system as appropriate.

1. State Hospital Population Adjustments

Governor's Proposed Budget: The DMH estimates **a population of 4,687 patients** for 2002-03 (as of June 30, 2003) **at the four State Hospitals -- Napa, Metropolitan, Patton, and Atascadero**. **This reflects an increase of 215 Penal Code-related patients (55 SVP and 160 various Penal Code) and a reduction of 93 county-committed patients.**

To accommodate the population shifts and related adjustments, **the budget is proposing a net increase of $9.4 million (increase of $21.6 million General Fund). In addition, the budget continues Budget Bill Language as crafted by the Legislature last year which, among other things, states that funds appropriated to accommodate projected hospital population levels in excess of those that actually materialize, if any, shall revert to the General Fund.**

The proposed caseload for each State Hospital is as follows:

Hospital & Patient Type	Revised 2001-02	Proposed Adjustment	Proposed 2002-03
Atascadero	**1,192**	**117**	**1,309**
Sexually Violent Predators	435	55	490
Penal Code	757	62	819
Metropolitan	**939**	**-127**	**822**

County Patients	563	-117	563
Penal Code	376	0	376
Napa	**1,118**	**81**	**1,199**
County Patients	257	-17	240
Penal Code	861	98	959
Patton	**1,„316**	**41**	**1,357**
County Patients	49	31	80
Penal Code	1,267	10	1,277
TOTALS	**4,565**	**122**	**4,687**
Penal Code	3,260	160	3,420
County Patients	869	-93	776
Sexually Violent Predators	436	55	491

Revised Budget Methodology and Reduced Expenditures: In her Analysis, the LAO expressed concerns about the DMH population projections stating that their methodology over estimated actual population trends. **Specifically, the LAO recommended a reduction of $12.6 million General Fund from the DMH proposal, as well as a reduction to the California Department of Corrections (CDC) for State Hospital beds used by the CDC which are provided through a memorandum of understanding.**

Since this time, **the Administration and LAO** have further discussed the methodology used for population projections. **Based on these discussions the DMH has agreed to make an adjustment in their methodology.**

Based on this revised methodology, the January proposed budget could be reduced by $5.378 million General Fund. In addition, County reimbursements would be reduced by $1.1 million. The Administration notes that they will provide a revised budget to the Subcommittee at the May Revision.

If the Subcommittee utilizes the revised methodology, the total General Fund increase would be $16.2 million for the budget year (versus the proposed $21.6 million level) over the revised current year.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following question:

- **1.** Please **briefly describe** the revised methodology.

Budget Issue: Does the Subcommittee **want to reduce the budget by $5.378 million (General Fund) pending receipt of the May Revision?**

2. Non-Level of Care Staff for State Hospital Expansion

Background: The Budget Act of 2001 provided funds for the DMH to purchase 25 modular trailers that would be placed at Atascadero State Hospital (ASH) and Patton State Hospital (PSH) and used as additional space to enable other buildings to be used as temporary beds for up to 500 additional patients. The funding was justified on the basis that the State Hospital system would run out of bed space for patients requiring a secure setting in 2002-03 (this upcoming budget year).

Governor's Proposed Budget: The budget proposes **an increase of $3.1 million** (General Fund) **to support almost 40 Non-Level-Of-Care Positions**, including food service workers, Hospital Police Officers, building maintenance workers, and systems analysts, **and related operating expenses to support clinical staff and meet other needs when the modular space is occupied.**

Legislative Analyst's Office Recommendation: In her Analysis, the LAO recommends **to delete the entire budget request** since they believe the additional beds will not be needed until 2003-04 at the earliest.

Changes Due to Revised Methodology: As noted in the discussion regarding the State Hospital patient population (item 1 above), the patient population estimating methodology is proposing to be changed. **Based on this revised methodology, the DMH concurs with the LAO that funds are not needed at this time.**

Budget Issue: Does the Subcommittee **want to reduce the budget by $3.1 million (General Fund)** to reflect elimination of this proposal?

3. Continued Activation of the Secure Treatment Facility in Coalinga (Hand Out)

Background: The Budget Act of 2001 provided funds for the construction of a new secure treatment facility for the care and treatment of patients committed under the SVP law or specified sections of the Penal Code. The 1,500 bed facility is to be located adjacent to Pleasant Valley State Prison in the city of Coalinga.

In addition to the construction funds, **the Budget Act of 2001 also included $375,000 (General Fund) for partial year funding to support the first phase of an activation team consisting of six positions (Executive Director, Hospital Administrator, Coordinator of Nursing Services, General Services Administrator II, Staff Services Manager I for Personnel Services, Executive Security). According to the DMH, the California Department of Corrections (CDC) advised the DMH that activation should begin as soon as possible so that staff could participate in construction issue resolution.**

Governor's Proposed Budget: The budget requests **an increase of just over $1 million (General Fund) and 15 positions** (7.4 personnel years for a total of $500,000) **to**

continue activation activities associated with Coalinga. In addition, funding is also requested for associated operating expense costs ($548,000) and relocation expenses ($140,000) associated with the recruitment of these new staff.

The requested 15 positions include: 5 for Plant Operations, 3 for Personnel and Training, 2 for Accounting and Fiscal Systems, 2 Warehouse Personnel, 2 Clerical Support and a Clinical Administrator. These positions will be phased-in at various times during the upcoming budget year.

The DMH states that these positions will continue a smooth transition as the facility construction progresses and ensure key operational staff are in place once construction of the facility is completed.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please **briefly describe the Coalinga activation plan**. **Is it still on schedule?**
- **2.** Have all of the positions authorized in the Budget Act of 2001 been filled?
- **3.** Please **briefly describe the primary positions** that are needed for the budget year. **What may happen if you do not receive all of these positions?**
- **4.** How may the existing hiring freeze affect the hiring of these positions?

Budget Issue: Does the Subcommittee **want to adopt or modify the proposed budget?**

4. Office of Patient's Rights

Background: As **required by existing statute**, the DMH **must contract with an independent entity for patient's rights advocacy services at the four State Hospitals.** In addition, the contractor must provide training and technical assistance to county patient rights advocates.

Generally, each State Hospital is staffed by one full-time patient advocate and a part-time advocate assistant. **This currently provides, on average, one advocate per 1, 220 patients.**

Specifically, state law and regulation require the patients' rights advocate to: (1) investigate and respond to patient complaints regarding violation of their rights, **(2)** investigate patients' allegations of abuse and neglect, **(3)** provide information to patients about their rights and how to file complaints, and **(4)** provide training to staff about patients' rights.

Based upon recent annual data, the contractor investigated and responded to 8,434 patients' rights complaints and related issues. Major areas of concern raised by patients' included violations of statutory patients' rights, abuse and neglect.

The contractor notes that although the number or patients, as well as State Hospital staff, has increased over time, the number of advocacy staff is the same in 2002 as it was in 1993, the first year the DMH was required to contract for these services.

Governor's Budget Proposal: The budget proposes to reduce the appropriation available for this contract by $120,000 (General Fund), or a reduction of 14 percent, in 2002-03.

Constituency Concern: The current contractor—Protection and Advocacy Incorporated—states that this level of reduction will have a significant affect on their ability to provide viable patient rights advocacy services. **Specifically, they note the following concerns:**

- They will not be able to respond to all patient complaints.
- The increasing patient populations with even less contract staff will severely strain the system. This is particularly difficult when there are other staffing shortages (such as nursing positions) at the State Hospitals which can lead to increased incidents of patient abuse due to lack of supervision or the increased use of seclusion and restraints.
- They will not be able to provide "back-up" advocacy services at the State Hospitals.

Subcommittee Staff Comment: If the Subcommittee wants to identify another reduction within the DMH budget to backfill for this proposed contract reduction, **Subcommittee staff would recommend to eliminate (1)** a vacant Staff Mental Health Specialist position (number 461-600-8325-001 and) from the Program Compliance section which is used to provide assistance to the section's Deputy Director, **and (2)** a vacant Research Program Specialist I position (number 461-751-5756-001). **Elimination of these two positions would equate to General Fund savings of $138,000.**

Budget Issue: Does the Subcommittee **want to adopt the proposed budget reduction, or restore it by shifting the reduction to another area of the support budget?**

LAST PAGE